



TOWN OF WENHAM

MASSACHUSETTS

OFFICE OF THE TOWN CLERK

TOWN OF WENHAM
ANNUAL TOWN MEETING
SATURDAY, MAY 1, 2004

CERTIFICATION OF VOTE

ARTICLE TEN To see if the Town will vote to adopt a Zoning Bylaw of the Town of Wenham for the regulation of underground petroleum storage tanks (UST), in the form which is on file with the Town Clerk and available for inspection, to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the Town of Wenham from contamination by oil or hazardous materials by requiring that owners of properties located within the Zone II of the Wenham public water supply and the Aquifer Protection District register their UST with the Wenham Fire Department, and to test all tanks older than 15 years, or for which there is no information on the date of installation, on an annual basis by a licensed company at the expense of the property owner, and to remove the UST in accordance with state requirements if the UST fails, and also to prohibit installation of new single-wall USTs within the Zone II and Aquifer Protection District; or take any other action relative thereto.

MOTION THE BOARD OF SELECTMEN AND THE PLANNING BOARD [in conjunction with the Board of Water Commissioners and the Board of Fire Engineers] move that the Town vote to adopt an underground petroleum storage bylaw, in the form on file with the Town Clerk, as new section XX amending the Wenham Protective Zoning Bylaw, and to authorize the Clerk to spread a copy of the same on the minutes of this meeting to evidence its adoption by Town Meeting.

TOWN OF WENHAM UNDERGROUND PETROLEUM STORAGE BYLAW

Section 1: Authority

This bylaw is adopted by the Town of Wenham under its home rule powers, its police powers to protect the public health, safety, and welfare, and its authorization under MGL c.40, 21.

Section 2: Purpose

The purpose of this bylaw is to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the Town of Wenham from contamination. Nothing in this bylaw shall be construed as inconsistent with, or in interference with the authority vested upon the Wenham Fire Chief under MGL c. 148, or any rules and regulations adopted pursuant thereto.

Section 3: Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

- 3.1 "Abandoned" means being out of service for a period of 180 days.
- 3.2 "Discharge" means the disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material or any constituent thereof into or on any land or water so that such material may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
- 3.3 "Hazardous materials" means any substance or combination of substances which, because of quantity, concentration, or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or human health if disposed into or on any land or water in the Town of Wenham. Any substance deemed a hazardous waste under Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended, 40 CFR, part 261, shall also be deemed a hazardous material for the purpose of this bylaw.
- 3.4 "Leak" means any uncontrolled movement, measured by a testing method accurate to 0.05 gallons per hour, of any hazardous material out of tank or its components, or any controlled movement of water into a tank or its components.
- 3.5 "Out of Service" shall mean not in use, with no regular filling or drawing; or not being maintained, without adherence to the requirements of this bylaw; or uncontrolled, without being attended or secured; or any combination thereof.
- 3.6 "Tank" means any structure used, or designed to be used, for the storage of hazardous materials of any kind.
- 3.7 "Underground Tank or Storage" shall mean any storage containment systems including piping connection therewith, which meets at least one of the following criteria:
 - a. The top of which is located below ground; or
 - b. Any portion of which is four feet or more below ground. Underground Tank or Storage shall not include the storage of fuel oil for heating purposes in a freestanding container within a building.
- 3.8 "Water Supply Recharge Area" means those areas designated as the Aquifer Protection District as depicted on a map prepared by Hancock Survey, entitled "Aquifer Protection District Map", dated March 1990. The water supply recharge areas are those areas that supply drinking water directly or indirectly to the public water supply for the Town of Wenham.
- 3.9 "Zone II" means that the area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated, as approved by the Massachusetts Department of Environmental Protection's Division of Water Supply pursuant to 310 CMR 22.00 et seq.

Section 4: Underground Storage Tanks

- 4.1 Installation of single wall underground storage tanks within the boundaries of the Aquifer Protection District and/or Zone II is prohibited.
- 4.2 All owners of underground storage tanks containing hazardous materials, in any quantity, including owners of buried fuel oil storage tanks, shall file with the Fire Chief the following information within one year of the adoption of this bylaw:

- a. Name, address and telephone numbers (day & night) of the owner or operator;
 - a. The size of the tank and of what material is it made;
 - b. The type of tank construction, and indication of any leak detection methods in place;
 - b. The type of hazardous-material being stored and quantity;
 - c. The location of each tank on the premises, complete with sketched map;
 - d. The age of each tank, evidence of the date of installation, including any permits, if applicable;
 - e. Description of any previous leaks or spills, including approximate dates, causes, estimated amounts and repairs undertaken; and
 - f. The date and method of the most recent tank tightness test.
- 4.3 Owners of tanks located within the Zone II and/or Aquifer Protection District, for which evidence of installation date is not available shall, at the order of the Fire Chief, have such underground tank and systems tested, in accordance with section 4.3 herein. If the testing determines that the tank is not product tight, as established by a tank test conducted in conformance with the methodology prescribed for that test which indicates: (1) there is a substantial likelihood of a leak equal to or greater than 0.05 gallons per hour in a single-walled tank; or (2) there is a substantial likelihood of a leak equal to or greater than 0.05 gallons per hour in the inner wall of a double-walled tank, that tank shall be removed within 72 hours following confirmation of the test results. Nothing in this bylaw shall relieve any person from the requirements established in MGL c. 21E or 310 CMR 40.0000 et seq.
- 4.4 All underground tanks located within the Zone II and/or Aquifer Protection District shall be subject to mandatory testing 15 years after the date of installation, and annually thereafter. If evidence of the date of installation is not available, all such tanks shall be tested annually, effective upon adoption of this bylaw. The first annual test shall be completed within 12 months of adoption of this bylaw. Owners may demonstrate to the Fire Chief that such tests are not appropriate when, after showing to the Fire Chief of monitoring devices, double-walled construction, or equivalent safety precautions, the Fire Chief determines that the underground tank does not represent a threat to ground or surface water quality. Such waivers shall be required annually.

Nothing in this subsection shall be construed to replace or supercede the testing requirements of MGL c. 148 or 527 CMR 9.00, et seq. as amended.

The provisions of this Section shall apply only within the Aquifer Protection District of the Town of Wenham and/or Zone II within the Town of Wenham.

Section 5: Abandonment

- 5.1 All abandoned tanks shall be removed within 6 months of abandonment.

Section 6: Defects

- 6.1 All leaking tanks must be emptied by the owner or operator within twelve hours after detection of the leak, and the tank removed by the owner or operator in accordance with Section 4.3 above.

Section 7: Enforcement

- 7.1 The Fire Chief or his agent, and agents of the Board of Water Commissioners may enter upon privately-owned property for the purpose of performing his duties under this bylaw.
- 7.2 Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one violation exists, each condition shall constitute a separate offense. Upon the request of the Fire Chief, the Board of Selectmen shall take such legal action as necessary to enforce this bylaw.

Section 8: Severability

The validity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

2/3 MAJORITY REQUIRED

QUORUM: 5% OF 2457 (123)

PRESENT: 267

MOVED AND SECONDED BY DAVID E. GEIKIE, CHAIRMAN OF THE PLANNING BOARD

VOTER CARDS AND TELLERS

YES: 210

NO: 5

MOTION DECLARED PASSED BY THE REQUIRED 2/3 MAJORITY

ATTEST:

Frances Harte Young

Frances Harte Young, Wenham Town Clerk



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS DIVISION
1350 MAIN STREET
SPRINGFIELD, MASSACHUSETTS 01103-1629

THOMAS F. REILLY
ATTORNEY GENERAL

(413) 784-1240
www.ago.state.ma.us

November 3, 2004

Frances Young, Town Clerk
Wenham Town Hall
5 School Street
Wenham, MA 01984

RE: Wenham Annual Town Meeting of May 1, 2004 — Case # 3104
Warrant Article # 10 (Zoning)

Dear Ms. Young:

Article 10 - I return with the approval of this Office the amendments to the town by-laws adopted under this Article on the warrant for the Wenham annual town meeting that convened on May 1, 2004, except as provided below.

Very truly yours,

THOMAS F. REILLY
ATTORNEY GENERAL

by: Kelli E. Gunagan, Assistant Attorney General
By-law Coordinator, Municipal Law Unit
1350 Main Street, 4th Floor
Springfield, MA 01103-1629
(413) 784-1240, x 117

enc.
pc:

Town Counsel



TOWN OF WENHAM
MASSACHUSETTS
OFFICE OF THE TOWN CLERK

ZONING BYLAW
Underground Petroleum Storage

POSTING INSTRUCTIONS TO THE CONSTABLE

Bulletin Board at the corner of Main Street and Friend Court
Junction of Larch Row, Dodge's Row and Walnut Road
Junction of Grapevine Road and Hull Street
Junction of Cherry Street, Maple Street and Route 97 (Topsfield Road)

Town Hall
Post Office
Hamilton Wenham Public Library

(The Bylaw will also be posted on the Website WENHAMMA.GOV)


WENHAM CONSTABLE

12-14-04
DATE